

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION

*previously
denied*

ROBERT EARL FOSTER,)	
)	
Plaintiff,)	
v.)	Case No. 2:12-CV-04324-MJW
)	
DAN WRIGHT,)	
)	
Defendants.)	

**MOTION FOR JUDGMENT AS A MATTER OF LAW AT THE CLOSE OF ALL THE
EVIDENCE**

Pursuant to F.R.Civ.P. 50(a), defendant Dan Wright moves this Court for entry of judgment as a matter of law in his favor at the close of all the evidence. As grounds for this motion, defendant states the following:

1. On plaintiff's claim of unreasonable seizure of his person under the Fourth Amendment, the evidence has failed to establish that defendant Wright used more force that was reasonably necessary to transport plaintiff. See *Graham v. Connor*, 490 U.S. 386, 394-95 (1989).
2. On plaintiff's claim of unreasonable seizure of his person under the Fourth Amendment, the evidence has established that defendant Wright is entitled to qualified immunity because defendant Wright did not violate any clearly established constitutional right and therefore he is entitled to qualified immunity. See *Parks v. Pommeroy*, 387 F. 3d 949, 957-58 (8th Cir. 2004).
3. There is no evidence to support submission of a claim for future damages.
4. The evidence has failed to establish a basis for awarding punitive damages against defendant Wright on plaintiff's Section 1983 claim. The evidence has failed to show


that defendant's conduct was motivated by evil motive or intent, or involved reckless or callous indifference to the federally protected rights of others. See Smith v. Wade, 461 U.S. 30, 56 (1983).

WHEREFORE, defendant Dan Wright moves this Court for entry of judgment as a matter of law in his favor at the close of all the evidence, and for such further relief as this Court deems proper.

Respectfully submitted,

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By:


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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on November 12, 2014, I filed the foregoing with the Clerk of the United States District Court and hand delivered a copy in open court to plaintiff's counsel Brent Dwerlkotte.

